

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF MISSOURI

State Farm Fire and Casualty Co.)
Plaintiff,)
v.)
Thomas R. McLean, MD,)
Jeffery W. Bruce)
Defendants.)
Civil Action No. 4:22-CV-127-HFS

DEFENDANT'S MOTION FOR SUBSTITUTED SERVICE

COMES NOW, Thomas R. McLean M.D., as a *pro se* Defendant in the above action to respectfully request a Motion for Substituted Service upon the Defendant's wife and adult children. For the reasons discussed below, Dr. McLean's counterclaims for breach of contract and the Plaintiff's negligence survive Defendant Bruce's death. According, Dr. McLean respectfully requests a writ summoning the Defendant's family (heirs) to represent him in this litigation and ordering the family to preserve Defendant's documents and instrumentation to create documents.

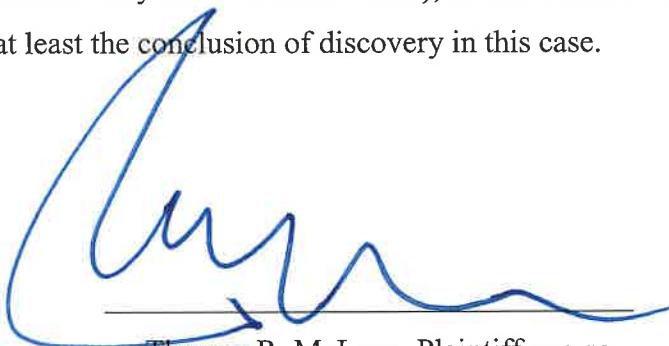
1. A Suggestion of Death for Defendant Bruce was filed yesterday.
2. "If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative." FRCP 25(a)(1).
3. Whether a claim survives a party's death is determined by state substantive law. *See In re Baycol Prods. Litig.*, 616 F.3d 778, 785 (8th Cir. 2010). Under Missouri law, both Dr. McLean's breach of contract related counterclaims (MO Rev Stat § 431.130) and his negligence counterclaims (MO Rev Stat § 537.020) against the Plaintiff survive the death of Defendant Bruce.
4. Given that Defendant Bruce's death occurred approximately 72 hours ago, it is extremely unlikely that Defendant has a personal representative for purposes of probate.
5. Dr. McLean is unaware of any personal representative or agent for Defendant Bruce.

6. From conversation with the Defendant, Dr. McLean believes that Defendant Bruce is only survive by his wife and two children.
7. Dr. McLean knows that the Defendant's wife, Margaret L Bruce resides at 2107 E 195th Street, Belton, MO, 64012.
8. On May 24, 2022, a search of publicly (Spokeo) records, revealed that:
 - a. Mathew W Bruce, resides at 2103 E 195th Street, Belton, MO, 64012; and
 - b. Leslie K Bruce, resides at 2107 E 195th Street, Belton, MO, 64012.

WHEREFORE, Dr. McLean's counterclaims against the Plaintiff survive Mr. Bruce's death, Dr. McLean respectfully requests the Court to issue a writ to be served upon Margaret L, Mathew W, and Leslie K Bruce. This writ should also instruct the Bruce family on how and when to make an appearance to represent the late Defendant in this litigation; and that they are also to preserve Defendant Bruce's computer(s), cell phones, documents (regardless of whether formatted in paper or electronic), recordings (regardless of whether only audio or audiovisual), all electronic storage devices, fax and copying machines until at least the conclusion of discovery in this case.

Respectfully Submitted,

May 25, 2022

A handwritten signature in blue ink, appearing to read "Tom McLean", is written over a blue horizontal line. The signature is fluid and cursive.

Thomas R. McLean, Plaintiff *pro se*
4970 Park
Shawnee, KS, 66216
913-525-5526
tmcllc1999@gmail.com